

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
NATIONAL SCIENCE AND TECHNOLOGY	)	FCC File No. D108068
NETWORK, INC.	)	
Licensee of Private Land Mobile Radio Station	)	
WPMJ456, Glendale, California	)	
	)	
FISHER WIRELESS SERVICES, INC.	)	FCC File No. C007248
Licensee of Private Land Mobile Radio Station	)	
WPNQ697, Running Springs, California	)	
	)	
HENRY RADIO, INC.	)	
Informal Petitions	)	
	)	
AMERICAN AUTOMOBILE ASSOCIATION	)	
Informal Complaint	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: August 7, 2002**

**Released: August 9, 2002**

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

**I. INTRODUCTION**

1. We have before us an ongoing conflict involving National Science and Technology Network, Inc. (NSTN), licensee of centralized trunked Station WPMJ456, Glendale, California, and various other licensees. To date, the licensees and the frequency coordinators who coordinated the underlying applications have been unable to resolve this matter. Based upon our review and analysis of the information before us,<sup>1</sup> we propose to resolve this matter by modifying NSTN's license for Station WPMJ456 to change the station class of NSTN's authorization from a centralized trunked station (station class "FB8")<sup>2</sup>, to a decentralized trunked station (station class "FB6")<sup>3</sup>. We also deny various informal

<sup>1</sup> The following pleadings are pending: informal petitions filed November 25, 1998, May 15, 1999, and June 2, 1999 by NSTN seeking the set-aside of the grant of the license for Station WPNQ697, Running Springs, California to Fisher Wireless Services, Inc.; a complaint filed February 10, 2000 by Mobile Relay Associates (MRA) seeking cancellation of NSTN's license for Station WPMJ456; a letter dated June 13, 2000, from the American Automobile Association, Inc. (AAA) alleging improper coordination of several stations licensed on frequencies co-channel to Station WPMJ456; and various responsive pleadings.

<sup>2</sup> In a "centralized trunked system," the base station controller provides dynamic channel assignments automatically searching all channels in the system for, and assigning to a user, an open channel within that system.

<sup>3</sup> In a "decentralized trunked system," which is also a system of dynamic channel assignment, the system continually monitors the assigned channels for activity both within the trunked system and outside the trunked system, and transmits only when an open channel is found.

complaints filed against other licensees because those complaints were based upon Station WPMJ456 having a valid claim to an exclusive area of operation.

## II. BACKGROUND

2. Frequency coordination in the Private Land Mobile Radio (PLMR) Services is the process by which a private entity certified by the Commission recommends the most appropriate frequencies for applicants in their designated radio service.<sup>4</sup> In 1986, the Commission adopted frequency coordination rules and procedures in an effort to maximize service to the public by assuring that the assignment and management of the PLMR spectrum is performed in an efficient and effective manner.<sup>5</sup> The Commission has stated that accurate information is fundamental to its ability to review effectively the frequency recommendations made by frequency coordinators prior to licensing.<sup>6</sup> A fundamental aspect of frequency coordination, in any radio service, is an accurate determination by the frequency coordinator of whether the proposed operations potentially will cause harmful interference to existing co-channel or adjacent channel licensees.<sup>7</sup>

3. In 1997, the Commission allowed centralized trunking in the PLMR bands between 150 MHz and 512 MHz.<sup>8</sup> The Commission emphasized that centralized trunking would be permitted only in those areas where exclusivity is recognized by the Commission or where an applicant/licensee has obtained the consent of all licensees whose service areas overlap a circle with a radius of 70 miles from the proposed trunked system's base station.<sup>9</sup> In 1999, the Commission provided applicants with an alternate means of obtaining an authorization for a centralized trunked system by obtaining the concurrence of any existing co-channel or adjacent channel licensee whose 39 dBu service contour (UHF) or 37 dBu service contour (VHF) is intersected by the 21 dBu (UHF) or 19 dBu (VHF) interference contour of a proposed trunked station.<sup>10</sup>

4. In 2000, the Commission revised the definition of trunked systems that are governed by Section 90.187 of the Commission's Rules, to recognize all types of trunked systems, *i.e.*, centralized, decentralized, and hybrid<sup>11</sup> that may be authorized in the 150-512 MHz bands.<sup>12</sup> The Commission also

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<sup>4</sup> See Frequency Coordination in the Private Land Mobile Radio Services, *Report and Order*, 103 FCC 2d 1093 (1986).

<sup>5</sup> *Id.* at 1094-1095 ¶ 2.

<sup>6</sup> *Id.* at 1148 ¶ 111, 1150 ¶ 116.

<sup>7</sup> See generally American Mobile Telecommunications Association, Inc. and American Trucking Associations, Inc., DA 01-1411, *Report and Order*, 16 FCC Rcd 12,416 ¶¶ 13-15 (WTB PSPWD June 11, 2001).

<sup>8</sup> Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, PR Docket No. 92-235, *Second Report and Order*, 12 FCC Rcd 14307, 14337-38 ¶¶ 56-59 (1997). At the time, only decentralized trunking was permitted. In a "centralized trunked system," the base station controller provides dynamic channel assignments by automatically searching all channels in the system for, and assigning to a user, an open channel within that system. In a "decentralized trunked system," which is also a system of dynamic channel assignment, the system continually monitors the assigned channels for activity both within the trunked system and outside the trunked system, and transmits only when an open channel is found.

<sup>9</sup> *Id.*

<sup>10</sup> Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, PR Docket No. 92-235, *Third Memorandum Opinion and Order*, 14 FCC Rcd 10922, 10926-27 ¶¶ 6-9 (1999).

<sup>11</sup> A "hybrid trunked system" is one where at least one of the frequencies being trunked, but not all the frequencies being trunked, meet the criteria specified in 47 C.F.R. § 90.187(b). See Wireless Telecommunications Bureau Clarifies Procedures for Licensing Trunked Radio Systems Operating Between 150-512 MHz, *Public Notice*, 15 FCC Rcd 22062, n.1 (WTB PSPWD 2000).

made clear that except under certain conditions, trunked systems must now employ equipment that prevents transmission on a trunked frequency if a signal from another system is present on that frequency,<sup>13</sup> and that the level of monitoring must be sufficient to avoid causing harmful interference to other systems.<sup>14</sup> Further, the Commission specified new licensing procedures with respect to trunked PLMR systems operating in the 150-512 MHz bands.<sup>15</sup>

5. Under the new licensing procedures, in order for a licensee to operate in the trunked mode, its license must specify a trunked radio service code.<sup>16</sup> The Commission also established a new station class code for trunking – FB8.<sup>17</sup> Applicants must use the FB8 station class code for channels that are not subject to the monitoring requirement (*i.e.*, the applicant/licensee has obtained the necessary consent or has exclusive use of the channel).<sup>18</sup> Applicants proposing a decentralized trunked system are subject to monitoring requirements and, therefore, would not use the FB8 code.<sup>19</sup> These rule changes became effective November 13, 2000.<sup>20</sup>

6. The instant case originated on May 14, 1998, when American Automobile Association (AAA), a FCC-certified frequency coordinator, filed an application on behalf of NSTN to operate in the centralized trunked mode in the 450 MHz band.<sup>21</sup> NSTN received an authorization to operate centralized trunked Industrial/Business Station WPMJ456 on August 12, 1998.<sup>22</sup> Approximately three months later, on November 5, 1998, the Industrial Telecommunications Association, Inc. (ITA), another FCC-certified

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<sup>12</sup> See 1998 Biennial Regulatory Review - 47 C.F.R. Part 90 – Private Land Mobile Radio Services, Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services, WTB Docket 98-182, *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 16673, 16685-6 ¶ 25 (2000) (*Part 90 R&O*).

<sup>13</sup> *Id.* See 47 C.F.R. § 90.187(b) (2001) (monitoring required unless the conditions in paragraphs (b)(1) or (b)(2) are met). See 47 C.F.R. §§ 90.187(b)(1) (2001) (applicant/licensee has exclusive use of the channel(s)), 90.187(b)(2) (2001) (applicant/licensee has obtained consent of affected parties).

<sup>14</sup> *Part 90 R&O*, 15 FCC Rcd at 16685-6 ¶ 25. The Commission indicated that it would rely on the frequency coordinators to specify a “level” of monitoring. *Id.* In this regard, the Commission said it would expect coordinators to specify whether monitoring has to be done at the base station (repeater) and what transmissions have to be monitored (*i.e.*, the transmissions coming from another licensee’s mobiles/portables or another licensee’s base station). *Id.* As a result, frequency coordinators are required to develop and employ uniform procedures concerning the certification of applications proposing trunked systems that require monitoring. *Id.*

<sup>15</sup> *Id.* at 16686 ¶ 26.

<sup>16</sup> *Id.* “YG” is for operations on frequencies in the Industrial/Business Pool and “YW” is for operations on frequencies in the Public Safety Pool. *Id.* n.85 (citing 47 C.F.R. § 1.952 (1998)). Service codes now appear on the Commission forms. 47 C.F.R. § 1.926 (2000).

<sup>17</sup> *Part 90 R&O*, 15 FCC Rcd at 16686 ¶ 26.

<sup>18</sup> *Id.* We note that prior to the *Part 90 R&O*, exclusivity was shown on the license with radio service code YG and station class FB6. After the *Part 90 R&O* the Commission conducted an automated update on all licenses indicating exclusivity, *i.e.*, YG and FB6, to change their station class to FB8.

<sup>19</sup> Wireless Telecommunications Bureau Clarifies Procedures for Licensing Trunked Radio Systems Operating Between 150-512 MHz, DA 00-2565, *Public Notice*, 15 FCC Rcd 22062 (Nov. 9, 2000). Applications for decentralized trunked systems must still specify a trunked radio service code (*i.e.* YG or YW).

<sup>20</sup> 65 Fed. Reg. 60869 (2000).

<sup>21</sup> See FCC File No. 9805D108068 (filed May 14, 1998).

<sup>22</sup> *Id.* (granted Aug. 12, 1998).

frequency coordinator, filed an application on behalf of Fisher, requesting authorization for Fisher to operate in the decentralized trunked mode in the 450 MHz band.<sup>23</sup> In November 1998, NSTN filed an “informal petition” in which it requested the deletion of frequency pairs 452.3000/457.3000 MHz and 452.6500/457.6500 MHz from Fisher’s application, FCC File No.9811C007248, due to the close proximity of NSTN’s use of the same frequencies in its operation of Station WPMJ456.<sup>24</sup> Fisher received an authorization to operate decentralized trunked Conventional Industrial/Business Station WPNQ697 on May 6, 1999.<sup>25</sup>

7. Since then, NSTN has filed at least two additional “informal petitions” in its effort to have us delete the subject frequencies from Fisher’s license for Station WPNQ697.<sup>26</sup> These petitions argue that the frequencies should be deleted from Station WPNQ697, because Fisher’s underlying applications were filed “many months after our mutually exclusive YG application had already been granted.”<sup>27</sup>

8. In response to a FCC request to investigate the frequency coordination and procedural issues surrounding the grant of Station WPNQ697 to Fisher, ITA submitted a frequency analysis in which it demonstrates that on virtually every frequency at each of the four base station sites authorized on the license for Station WPMJ456, there were multiple incumbent co-channel or adjacent channel licensees located within 70 miles of NSTN’s base stations.<sup>28</sup> ITA states that according to NSTN’s “application records, it does not appear that an engineering analysis was performed to confirm the necessary compliance with Section 90.187(b)(2)(i) and (ii), nor does it appear that the FCC received the necessary letters of consent from any co-channel and adjacent channel incumbents.”<sup>29</sup> As a result, ITA is opposed to setting aside the license of Station WPNQ697 on the basis that it compromised the trunked status of Station WPMJ456, because it believes that Station WPMJ456 should never have received an “YG” license.<sup>30</sup> ITA suggests that instead, Station WPMJ456 be modified from centralized trunked to conventional status, “which would require that the parties cooperate and resolve instances of harmful interference as the channel(s) in question are assigned on a shared basis.”<sup>31</sup> On July 2, 1999, AAA notified the Commission that it had been unable to resolve the interference conflict.<sup>32</sup> AAA suggested frequency pairs 452.3000/457.3000 MHz and 452.65090/457.6500 MHz be removed from Station WPNQ697,<sup>33</sup> and that Station WPMJ456 remain a centralized trunked system.<sup>34</sup>

9. On October 14, 1999, the Commercial Wireless Division, Wireless Telecommunications Bureau (Division) notified ITA and Fisher that Station WPNQ697 violated the co-channel separation

<sup>23</sup> See FCC File No. 9811C007248 (filed Nov. 5, 1998).

<sup>24</sup> Henry Radio Informal Petition, dated November 25, 1998.

<sup>25</sup> *Id.* (granted May 6, 1999).

<sup>26</sup> Henry Radio Informal Petition, dated May 15, 1999; Henry Radio Informal Petition, dated June 24, 1999.

<sup>27</sup> Henry Radio Informal Petition, dated June 24, 1999.

<sup>28</sup> See Letter from Mark E. Crosby, President/CEO of ITA, to Eric Smith, Commercial Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission at 1 (dated June 16, 1999) (ITA Frequency Analysis).

<sup>29</sup> *Id.* at 1-2.

<sup>30</sup> *Id.* at 1.

<sup>31</sup> *Id.*

<sup>32</sup> See Letter from Gary Ruark, Frequency Coordinator, AAA, to Eric Smith, Commercial Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission (dated July 2, 1999).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 2.

requirements of Section 90.187 of the Commission's Rules, as it is located less than 70 miles from NSTN's Station WPMJ456.<sup>35</sup> Citing its authority to set-aside "an application that has been granted as a result of an inadvertent, ministerial processing error," the Division removed frequency pair 452.3000/457.3000 MHz from Station WPNQ697's license.<sup>36</sup> In addition, the Division directed AAA to submit an explanation showing how NSTN's application for Station WPMJ456 had complied with the Commission's Rules.<sup>37</sup>

10. On November 15, 1999, AAA averred that grant of frequency pair 452.3000/457.3000 MHz on Station WPNQ697 was "improvidently granted" and should be deleted from Fisher's license.<sup>38</sup> AAA also noted that "resolution of this matter must also include 452/457.650 MHz."<sup>39</sup> Regarding the Division's request for information reflecting proper frequency coordination for Station WPMJ456, however, AAA stated that it would be unable to comply as it "does not retain engineering data on applications it coordinates beyond the date their FCC grants become final."<sup>40</sup>

11. On February 10, 2000, Mobile Relay Associations, Inc. (MRA), licensee of several PLMR stations located in the Los Angeles, California area, filed a letter in support of ITA's suggestion to modify Station WPMJ456, stating out that NSTN's license had been obtained through an "improper, defective coordination,"<sup>41</sup> as MRA had three co-channel applications pending before the Commission at the time NSTN's application was coordinated by AAA.<sup>42</sup> MRA noted further that the pendency of its applications should have prohibited AAA from coordinating any conflicting applications.<sup>43</sup>

12. On June 7, 2000, AAA submitted an informal complaint alleging that various granted licenses and applications being filed on frequencies licensed to Station WPMJ456 were being improperly coordinated and/or granted.<sup>44</sup> AAA alleged that each of the licenses was granted within the protected operating area of Station WPMJ456. AAA requested that the licenses be "corrected" to remove the frequencies licensed to NSTN within NSTN's protected operating area.

13. On June 26, 2000, the Licensing and Technical Analysis Branch of the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau (Branch) reiterated the Division's

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<sup>35</sup> See Letter from Ronald B. Fuhrman, Deputy Chief, Technical Analysis Section, Commercial Wireless Division, to Fisher Wireless Services, Inc. (dated Oct. 14, 1999). Note: Fisher's Station WPNQ697 is within 69 kilometers of NSTN's Station WPMJ456.

<sup>36</sup> *Id.* at 2.

<sup>37</sup> *Id.*

<sup>38</sup> See Letter from Michele C. Farquhar, counsel to the American Automobile Association, to Ronald B. Fuhrman, Deputy Chief, Technical Analysis Section, Commercial Wireless Division (dated Nov. 15, 1999).

<sup>39</sup> *Id.* at 2.

<sup>40</sup> *Id.* at 1.

<sup>41</sup> See Letter from David J. Kaufman, counsel to Mobile Relay Associations, Inc., to Herb Zeiler, Deputy Chief, Public Safety and Private Wireless Division (dated Feb. 10, 2000) (MRA Letter).

<sup>42</sup> See FCC File Nos. D103740, D104462, and D107518, subsequently granted respectively under Call Signs WPPE290, WPHH415, and WPPF223).

<sup>43</sup> MRA Letter at 1.

<sup>44</sup> See Letter dated June 7, 2000 from Gary Ruark, AAA Frequency Coordinator, to D'wana R. Terry, Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau. The licenses in question were identified as Stations WPHH415, WPPF223, WPPF290, WPIY390, WPNQ697, WPNN390, WPLZ880, WPMV761, WPMU831, WPMG376, and WPMT554. The applications in question were FCC File Nos. D049983, D050789, and D110873.

previous request that AAA demonstrate the sufficiency of the frequency coordination conducted for Station WPMJ456.<sup>45</sup> The Branch sent AAA a copy of the ITA analysis and instructed AAA to provide a copy of the letter of consent from each licensee referenced in ITA's analysis, as well as an engineering study showing compliance with Section 90.187 of the Commission's Rules.<sup>46</sup> The Branch noted that although AAA indicated that it does not maintain frequency coordination records, Section 90.187(b)(2)(v) of the Commission's Rules requires trunked licensees to maintain letters of consent and to provide copies to the FCC upon request.<sup>47</sup> The Branch further noted that if AAA's coordination of Station WPMJ456 was proven to be valid, the Branch could dismiss ITA's objection.<sup>48</sup> Otherwise, the Branch would "institute a license modification proceeding" against Station WPMJ456.<sup>49</sup>

14. By letter dated June 26, 2000, the Branch informed Fisher that it appeared that the previous deletion of frequency pair 452.3000/457.3000 MHz of Station WPNQ697 should have included frequency pair 452/457.6500 MHz and thus, "remains an open issue."<sup>50</sup> Fisher was asked to notify the Branch within thirty days of what action it would take concerning its use of frequency pair 452.6500/457.6500 MHz.<sup>51</sup>

15. On July 21, 2000, AAA responded to the Branch's June 26, 2000 inquiry relating to its frequency recommendation for Station WPMJ456.<sup>52</sup> Rather than supplying the requested information, AAA took the position that it was "unreasonable" for us to ask AAA to recreate the "state of affairs" that existed in 1997 or 1998.<sup>53</sup> AAA again states that it does not retain engineering data on applications it coordinates beyond the date the FCC grants become final, and argues that the thirty-day period that coordinators and licensees are given in which to protest the grant of an authorization elapsed two years ago.<sup>54</sup> AAA recommends that "the FCC should dismiss the complaint and uphold the integrity of the NSTN license, [sic] and the FCC's own application processing procedures."<sup>55</sup> Attached to AAA's July 21, 2000 letter is a letter from Fisher stating that it had ceased transmission on frequency pair 452.6500/457.6500 MHz. Fisher requested "that the frequency pair be held in abeyance pending a final resolution of the dispute regarding the underlying coordination process."<sup>56</sup>

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<sup>45</sup> See Letter from Steve Linn, Deputy Chief, on behalf of Mary Shultz, Chief, Licensing and Technical Analysis Branch, Public Safety & Private Wireless Division, Wireless Telecommunications Bureau, to Elizabeth Sachs, counsel to Fisher Wireless Services, Inc. (dated Jun. 26, 2000).

<sup>46</sup> *Id.* at 1.

<sup>47</sup> *Id.* at 1, note 1.

<sup>48</sup> *Id.* at 1-2.

<sup>49</sup> *Id.*

<sup>50</sup> See Letter from Steve Linn, Deputy Chief, on behalf of Mary Shultz, Chief, Licensing and Technical Analysis Branch, Public Safety & Private Wireless Division, Wireless Telecommunications Bureau, to Elizabeth Sachs, counsel to Fisher Wireless Services, Inc. (dated Jun. 26, 2000).

<sup>51</sup> *Id.* at 1.

<sup>52</sup> See Letter from Gary Ruark, Frequency Coordinator, Automobile Association of America, to Mary Shultz, Chief, Licensing and Technical Analysis Branch, Public Safety & Private Wireless Division, Wireless Telecommunications Bureau (dated Jul. 21, 2000).

<sup>53</sup> *Id.* at 2.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 2-3.

<sup>56</sup> *Id.* at Attachment 1.

### III. DISCUSSION

16. Based upon the record in this proceeding, we conclude that the original NSTN application should not have been coordinated or granted because it did not provide the requisite interference protection to several existing stations and pending applications. As a result, we find that AAA's coordination of NSTN's application for centralized trunked operations was defective. In this connection, we note that ITA's analysis demonstrates that at the time of AAA's coordination, there were multiple co-channel and adjacent channel PLMR stations located within 70 miles of Station WPMJ456.<sup>57</sup> While former Section 90.187(b) (2) required the written consent from such licensees, there is no record that the required consents were obtained. AAA's statements that it "does not retain engineering data on applications it coordinates beyond the date their FCC grants become final," and that "it is not reasonable to expect AAA to complete another engineering analysis" are insufficient to counter the weight of the ITA analysis, particularly given the absence of the requisite consents.<sup>58</sup>

17. We believe that Section 316(a)(1) of the Communications Act of 1934, as amended, provides the appropriate vehicle for resolving this matter.<sup>59</sup> Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity.<sup>60</sup> Because the coordination and eventual grant of NSTN's application were defective, we believe that a modification of the NSTN license to change the station class from FB8 to FB6. As a result of such modification, NSTN will have to monitor before transmitting, thereby avoiding harmful interference to pre-existing licensees. is the appropriate means of preventing harmful interference to pre-existing licensees. This will allow NSTN to continue serving customers, while ensuring that its operations do not interfere with the operations of Fisher, MRA, and other co-channel and adjacent channel licensees. Moreover, the proposed modification would serve the public interest by preserving the existing coverage areas of affected parties and prevent harmful interference, while not unduly disrupting NSTN's operations. In accordance with Section 1.87(a) of the Commission's Rules,<sup>61</sup> we will not issue a modification order until NSTN has received notice of our proposed action and has had an opportunity to interpose a protest. To protest the modification, NSTN must, within thirty days of the release date of this *Memorandum Opinion and Order*, submit a written statement with sufficient evidence to show that the modification would not be in the public interest. The protest must be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, D.C. 20554. If no protest is filed, NSTN will have waived its right to protest the modification and will be deemed to have consented to the modification.

18. Finally, we deny the informal petitions filed against Fisher's license and AAA's June 7, 2000 informal request that we set-aside the grant of various licenses issued on these frequencies after the grant of the license for Station WPMJ456.<sup>62</sup> Henry Radio's and AAA's complaints are based upon NSTN's

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<sup>57</sup> ITA Frequency Analysis at 1.

<sup>58</sup> Letter from Gary Ruark, Frequency Coordinator, Automobile Association of America, to Mary Shultz, Chief, Licensing and Technical Analysis Branch, Public Safety & Private Wireless Division, Wireless Telecommunications Bureau (dated July 21, 2000).

<sup>59</sup> 47 U.S.C. § 316(a)(1).

<sup>60</sup> *Id.*

<sup>61</sup> 47 C.F.R. § 1.87(a).

<sup>62</sup> We have modified erroneously granted licenses after the original license grant has become final. *See, e.g.,* Davis Electronics, Inc., DA 02-1266, *Memorandum Opinion and Order* (WTB PSPWD rel. May 31, 2002) (license modified after 30 days because of erroneous frequency coordination); Grand Trunk Western Railroad Communications Department, DA 02-989, *Memorandum Opinion and Order*, 17 FCC Rcd 8015 (WTB PSPWD 2002) (improperly granted license modified by Commission after 30 days); Cara Enterprises, Inc., *Memorandum* (continued....)

status as a centralized trunked station. As noted above, we have concluded that NSTN's application should not have been granted as a centralized trunked station and that NSTN was not entitled to an exclusive area of operation. None of the stations about which NSTN or AAA complains is licensed as a centralized trunked station. Accordingly, we conclude that it would be appropriate to require NSTN and the other licensees to share the channel cooperatively.<sup>63</sup>

#### IV. CONCLUSION

19. For the reasons stated above, we conclude that the underlying frequency coordination and subsequent grant of station class FB8 (centralized trunked station) on NSTN's Station WPMJ456 was defective. Accordingly, we propose to modify this license. Specifically, we propose to modify the license from a centralized trunked station to a decentralized trunked station (station class FB6). In addition, we dismiss the Informal Petitions filed by NSTN as moot.

#### V. ORDERING CLAUSES

20. ACCORDINGLY, IT IS PROPOSED that, pursuant to Section 4(i) and 316(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), and 316(a), and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, the license for Private Land Mobile Radio Service Station WPMJ456 BE MODIFIED to change the station class from FB8 to FB6.

21. IT IS ORDERED that, pursuant to Section 4(i) Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.87(i) of the Commission's Rules, 47 C.F.R. § 1.87(i), that this *Memorandum Opinion and Order* shall be sent by certified mail, return receipt requested to National Science and Technology Network, Inc.

22. IT IS FURTHER ORDERED that, pursuant to Section 4(i) Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, the Informal Petition filed by Henry Radio on November 25, 1998 IS DENIED.

23. IT IS FURTHER ORDERED that, pursuant to Section 4(i) Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, the Informal Petition filed by Henry Radio on May 15, 1999 IS DENIED.

24. IT IS FURTHER ORDERED that, pursuant to Section 4(i) Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, the Informal Petition filed by Henry Radio on June 24, 1999 IS DENIED.

25. IT IS FURTHER ORDERED that, pursuant to Section 4(i) Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, the informal complaint submitted by the American Automobile Association on June 7, 2000 IS DENIED.

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*Opinion and Order*, 17 FCC Rcd 8009 (WTB PSPWD 2002) (license modified after 30 days because original frequency coordination was faulty).

<sup>63</sup> See 47 C.F.R. § 90.173(a) ("Except as otherwise specifically provided for in this part, frequencies assigned to land mobile stations are available on a shared basis only and will not be assigned for the exclusive use of any licensee.")



26. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATION COMMISSION

D'wana R. Terry  
Chief, Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau